

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2007

No. 06-30997
Conference Calendar

Charles R. Fulbruge III
Clerk

DUNCAN BURTON

Petitioner-Appellant

v.

JOE YOUNG

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:06-CV-890

Before JOLLY, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Duncan Burton, federal prisoner # 12339-058, appeals the dismissal of his 28 U.S.C. § 2241 petition for lack of jurisdiction. Burton challenges the sentence imposed upon his conviction for conspiracy and possession of cocaine with intent to distribute. He seeks relief pursuant to *United States v. Booker*, 543 U.S. 220 (2005), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000). He also seeks an order

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

restraining the Bureau of Prisons from transferring him while his claim is pending, and he moves to expedite his appeal.

Burton's claim does not fall under the savings clause of 28 U.S.C. § 2255; thus, he may not pursue relief under § 2241. See *Padilla v. United States*, 416 F.3d 424, 426-27 (5th Cir. 2005); *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001).

AFFIRMED; MOTIONS DENIED.